

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

<b>IN RE:</b>	)	<b>BANKRUPTCY NO. 16-70482-M-11</b>
<b>DEAN A. GUTIERREZ, SR.</b>	)	
<b>DEBTOR</b>	)	<b>CHAPTER 11</b>

**ELDON LEE ZIEGER'S MOTION FOR RELIEF FROM  
AUTOMATIC STAY TO ALLOW REMOVAL OF SUIT**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING, AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**THE COURT HAS SET A HEARING ON THIS MATTER ON FEBRUARY 17, 2017 \_\_\_\_\_ AT 9:00 O'CLOCK A.M. AT US COURTHOUSE, BENTSEN TOWER, 1700 W BUS. HWY 83, MCALLEN, TEXAS.**

**TO THE HONORABLE JUDGE OF SAID COURT:**

Eldon Lee Zieger, a creditor in this case, presents this Motion for Relief from Automatic Stay to allow removal of a suit from state court and shows as follows:

1. The Court has jurisdiction of this Motion under 28 USC §1334. This Motion is a core proceeding as defined in 28 USC §157. The Bankruptcy Court has authority to enter a final order on this Motion for Relief from Automatic Stay; alternatively, Zieger consents to the entry of a final order on this Motion for Relief from Stay by the Bankruptcy Court.
2. Cause No. 2014-DCL-2838-A, Elvia Reyna and J. Julian River v. Eldon Lee Zieger and Rio Mobile Home and R.V. Parks, Inc.; Dean Gutierrez v. Eldon Lee Zieger is currently pending in the 107<sup>th</sup> Judicial District Court, Cameron County, Texas (hereafter called "the 107<sup>th</sup> case."). The case includes claims against the Debtor for default under a debt owed by the Debtor in this case and the enforcement of a security interest in property owned by the Chapter 11 Estate in this case. All action in the 107<sup>th</sup> case is stayed.

3. Zieger desires to remove the 107<sup>th</sup> case to this court so that it can be tried as an adversary proceeding.
4. Although Zieger does not believe that relief from the stay is required before taking an action in the home bankruptcy court, out of respect for this Court and the Bankruptcy process, Zieger seeks relief from the stay to permit removal.
5. Cause exists to modify the automatic stay because resolution of the 107<sup>th</sup> case is necessary in order to resolve the Debtor's Chapter 11 and the case can't be addressed in the 107<sup>th</sup> Judicial District Court because of the automatic stay. Therefore, the stay will have to be modified before this Chapter 11 Bankruptcy case can be completed.
6. Movant would show that Rio Mobile Home and R.V. Parks Inc., which is a party to the 107<sup>th</sup> case, is also a Debtor in a case before this Court, 16-10150-B-11. Zieger asserts no claims against Rio Mobile Home and R.V. Parks, Inc.
7. Wherefore, premises considered, Eldon Lee Zieger prays that the Court modify the automatic stay to permit him to remove Cause No. 2014-DCL-2838-A from the 107<sup>th</sup> Judicial District Court of Cameron County, Texas to this Court.
8. The undersigned certifies that prior to filing this Motion, I attempted to confer about this Motion with the attorney for the Debtor, Mr. Tony Martinez on January 17, 2016 by email. No response was received and it was necessary to file this motion.

Dated: January 23, 2017

Respectfully submitted,  
LAW OFFICE OF ANDREW K. ROZELL

By: /s/Andrew K. Rozell  
Andrew K. Rozell  
State Bar No. 17358000  
Southern District ID No. 1220  
Attorney for Eldon Lee Zieger

ADDRESS:  
LAW OFFICE OF ANDREW K. ROZELL  
323 E Jackson  
Harlingen, TX 78550  
956/428-1282 - telephone  
956/428-6595 - facsimile  
[akrlawharlingen@gmail.com](mailto:akrlawharlingen@gmail.com)

**CERTIFICATE OF SERVICE**

I certify that, in addition to all persons served by the Court's CM/ECF system, on January 23, 2017 I served a copy by first class mail on all persons listed on the attached service list.

/s/Andrew K. Rozell  
Andrew K. Rozell